

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

DOMINIC GWINN,

Plaintiff,

vs.

CITY OF CHICAGO, and DAVID O'NEAL  
O'NEAL BROWN,

Defendants.

Case No. 1:23-cv-01823

Honorable Nancy L. Maldonado

**DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

Pursuant to Rule 56 of the Federal Rules of Civil Procedure, Defendants City of Chicago (“City”) and David O’Neal Brown (“Brown”) move for Summary Judgment on all counts of Plaintiff’s complaint. Thus, this motion is dispositive of all claims asserted by Plaintiff. No material facts are disputed.

Count I is for copyright infringement under the Copyright Act, 17 U.S.C. § 106, and summary judgment is appropriate because Defendants’ use of Plaintiff’s Work was a permitted fair use under 17 U.S.C. § 107 of the Copyright Act, namely, non-commercial news reporting.

Count II alleges that Defendants removed copyright management information (CMI) from Plaintiff’s Work in violation of 17 U.S.C. § 1202(b) of the Copyright Act. Plaintiff has admitted that Plaintiff’s Work, which was published on Twitter, did not include Plaintiff’s name or an attribution within the framing of the Work itself. A violation of § 1202(b) of the Copyright Act requires removal of CMI from the Work. Since Plaintiff’s Work did not contain CMI, Defendants could not have removed and did not remove CMI from Plaintiff’s Work. Therefore, summary judgment is appropriate on Count II as a matter of law.

The parties complied with this Court's meet and confer requirement. On Monday, April 1, 2024, Defendants' counsel, Joseph Schmidt, sent an email to Plaintiff's counsel, Evan Andersen. The email set forth the basis for Defendants' proposed motion for summary judgment. The email set forth in detail the supporting facts, legal theories and legal authorities. In an email and memo dated April 2, 2024, Plaintiff's counsel set forth Plaintiff's legal theories and authorities in response to Defendants' email of April 1, 2024. On April 5, 2024, the parties' counsel conferred by telephone, discussing the parties' respective positions.

For the foregoing reasons, Defendants request that this court grant summary judgment in favor of Defendants on both Counts I and II of Plaintiff's complaint.

DATED: April 24, 2024

Respectfully submitted,

**CITY OF CHICAGO and DAVID O'NEAL  
BROWN**

By: /s/ Joseph F. Schmidt  
One of Their Attorneys

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*Counsel for Defendants*

**CERTIFICATE OF SERVICE**

The undersigned, an attorney, hereby certifies that on April 24, 2024, he caused the foregoing ***Defendants' Motion For Summary Judgment*** to be filed with the Clerk of the United States District Court for the Northern District of Illinois, a copy of which will be served on all counsel of record by the Clerk's CM/ECF system.

/s/ Joseph F. Schmidt